

Patrick Fabiano's testimony with respect to the fact that [Barboza] had been well acquainted with Tameleo prior to the offenses charged here and that both Tameleo and [Barboza] had conferred together on numerous occasions at the Ebb Tide Club in Revere, Massachusetts." This is potentially significant because three months earlier FBI Director Hoover's office had been informed that, in order to save himself, Barboza "may try to intimidate Fabiano into testifying to something he may not be a witness to."¹⁰³⁶ This information appears to have been left out of the prosecution memorandum.

- The 1979 Ciulla race-fixing prosecution memorandum provides extremely important information about how prosecutorial discretion was exercised to benefit FBI informants James "Whitey" Bulger and Stephen Flemmi. It demonstrates that former U.S. Attorney Jeremiah O'Sullivan's testimony before the Committee is subject to question. Perhaps more important, it shows that a 1997 FBI Office of Professional Responsibility conclusion that prosecutorial discretion had never been exercised by the federal government on behalf of James Bulger and Stephen Flemmi was not correct.

As these observations make clear, these documents have been very important to the Committee's investigation. It is regrettable that the Committee's good faith effort to investigate Justice Department corruption in New England was impeded by the Justice Department's refusal to negotiate over these documents.

VI. CONCLUSIONS AND RECOMMENDATIONS

Democracy succeeds in the United States when the rule of law is respected. When the government strays from the rule of law, the harm outweighs the benefit. In Boston, this is what happened. As a result, men died in prison—and spent their lives in prison—for crimes they did not commit. A number of men were murdered because they came to the government with information incriminating informants. Government officials also became corrupted. The legacy of the Justice Department's use of informants in New England is a lack of confidence in those charged with administering our laws, families torn apart by a government that permitted murders and unjust prison terms, and exposure of the government to civil liability that could amount to billions of dollars.

The Committee on Government Reform is committed to ensuring that these abuses are not repeated. As a result of the Committee's investigation, the Committee has received numerous letters and other materials alleging misconduct by the FBI. The Committee intends to examine these allegations closely to determine whether the FBI handled them appropriately and to consider whether further investigation is warranted.

The Committee also recommends further review of the FBI's human source program. The Committee has been informed by the FBI that following the revelations regarding the misuse of informants, FBI Director Robert Mueller has undertaken re-engineering

¹⁰³⁶ Memorandum from Special Agent in Charge, Boston FBI Field Office, to J. Edgar Hoover, Director, FBI (Mar. 28, 1967) (Exhibit 134).

the administration and operation of human sources. This effort includes the centralization of the administration of all human sources, development of a "Risk Factor Model," and, for certain categories of human sources, implementation of a validation process. Each FBI Field office has at least one human source coordinator, and 34 offices have two coordinators. Inspections and on-site assessments are conducted. Files are reviewed by Supervisory Special Agents and Assistant Special Agents in Charge at least every 60 days, and in some cases every 90 days. The FBI has implemented significant new training requirements in connection with its informant program.

Other measures have been undertaken that may also prevent FBI misuse of informants. Director Mueller has undertaken a review of the Office of Professional Responsibility to ensure that the system of internal discipline is effective. The FBI is also seeking to enhance oversight and accountability of human source management in the wake of the revelations as a result of undertaking a new internal security program following the allegations against former Agent James Smith and his source Katrina Leung regarding the loss of classified information. In January 2001, the Department of Justice revised its Confidential Informant Guidelines that, among other things, established a Criminal Informant Review Committee consisting of senior FBI and Department officials. Finally, the Department of Justice's Inspector General now also has authority to investigate allegations of misconduct against employees of the FBI.

The Committee will examine these reforms to ensure that they are being implemented and to ensure that, as implemented, they are effective.

[The appendices referred to follow:]